

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BERNADETTE CHARLES and PIERRE-GESNER
JEAN,

Plaintiffs,

NOT FOR PUBLICATION

v.

ORDER

16-CV-6589 (MKB)

ACS KINGS, TRACY NICOLE, CPS BROOKER
CLOVER, SUPERVISOR CPS MAXWELL
SHARON, and ALL ACS STAFF IN THE OFFICE,

Defendants.

MARGO K. BRODIE, United States District Judge:

Plaintiffs Bernadette Charles and Pierre-Gesner Jean, proceeding *pro se*, commenced the above-captioned action on August 24, 2016,¹ against Defendants the New York City Administration of Children's Services for Kings County ("ACS"), Tracy Nicole, Brooker Clover of Child Protective Services ("CPS"), Supervisor CPS Sharon Maxwell² and "all ACS staff in the office."³ (Compl. 1, Docket Entry No. 3.) Plaintiffs seek relief pursuant to 42 U.S.C. § 1983, alleging wrongful removal of their children from their custody and violation of their parental rights. (*Id.* at 4.)

¹ Plaintiffs originally filed the case in the Southern District of New York, and it was transferred to this Court by order dated November 21, 2016. (Docket Entry No. 4.) Because the Complaint is not consecutively paginated, the Court's citations refer to the page numbers assigned by the electronic document filing system.

² In the narrative of Plaintiffs' Complaint, Maxwell's first name is listed as "Sharon," and in the case caption it is listed as "Saron." (Compl. 2.) The Court uses the name "Sharon" throughout the Order.

³ Plaintiffs also list Jeanie Fougere as a Defendant but do not include Fougere in the caption. (*Id.* at 2.)

By Memorandum and Order dated January 24, 2017, Plaintiffs' claims against Defendants ACS Kings, Nicole, Fougere and "all ACS staff in the office" were dismissed for failure to state a claim upon which relief may be granted. (Mem. & Order dated Jan. 24, 2017 at 10, Docket Entry No. 7.) In addition, Plaintiffs' claims alleging violations of procedural due process based on post-removal proceedings and substantive due process were dismissed for failure to state a claim upon which relief may be granted. (*Id.*)

However, the Court granted Plaintiffs thirty days from the date of the Memorandum and Order to file an amended complaint in order to plead sufficient facts to allege a violation of their constitutional rights and to name proper Defendants. The Memorandum and Order informed Plaintiffs that if they failed to amend their complaint within thirty days, the Court would dismiss all claims except Plaintiffs' procedural due process claim based on inadequate pre-removal process. More than thirty days have elapsed, and Plaintiffs have failed to file an amended complaint.

Accordingly, it is hereby:

ORDERED that as to Plaintiffs' claims against Defendants ACS Kings, Nicole, Fougere and all ACS staff in the office, which were dismissed by the Court's January 24, 2017 Memorandum and Order, *see* 28 U.S.C. § 1915(e)(2)(B), no summons shall issue as to these defendants, and the Clerk of Court is directed to terminate these parties;

ORDERED that all claims, with the exception of Plaintiffs' procedural due process claim based on inadequate pre-removal process, are dismissed;

ORDERED that the Clerk of Court is hereby directed to serve the summons, the Court's Memorandum and Order dated January 24, 2017, and a copy of the instant order upon Defendants CPS Brooker Clover and Supervisor CPS Sharon Maxwell, at ACS,

located at 19 Grant Square, Brooklyn, New York, 11216;

ORDERED that a courtesy copy of the summons, Complaint, the Court's Memorandum and Order dated January 24, 2017, and the instant order shall be served upon the Corporation Counsel for the City of New York; and it is further

ORDERED that the action is referred to Magistrate Judge Lois Bloom for pretrial supervision.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444–45 (1962).

SO ORDERED:

s/ MKB
MARGO K. BRODIE
United States District Judge

Dated: April 7, 2017
Brooklyn, New York